



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
CHERRY POINT, NORTH CAROLINA 28533-5001

AirStaO 12630.2
CPL HRE 7
20 Jan 94

AIR STATION ORDER 12630.2 w/ch 1, 2

From: Commanding General
To: Distribution List

Subj: FAMILY AND MEDICAL LEAVE ACT (FMLA) OF 1993

Ref: (a) Title I of FMLA
(b) Title II of FMLA
(c) 5 C.F.R. Parts 630 and 890
(d) 29 C.F.R. 825

Encl: (1) Guidance on the Family and Medical Leave Act of 1993,
Title II
(2) Guidance on the Family and Medical Leave Act of 1993,
Title I
(3) Certificate of Physician or Practitioner: DOL Form WH-380

1. Purpose. To implement the requirements set forth in the references, that provide covered Federal employees entitlement to 12 administrative workweeks of unpaid leave for certain family and medical needs.

2. Background. The FMLA, effective August 5, 1993, provides certain Federal employees with entitlement to a total of 12 administrative workweeks of unpaid leave during any 12-month period for specified family and medical needs. Under certain circumstances, this leave may be taken on an intermittent basis rather than all at once; or the employee may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave. FMLA is in addition to other available paid time off. The employee may continue health benefits while he or she is on leave and is entitled to be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. Temporary and part-time employees are covered by Title I and all other appropriated employees are covered by Title 11, with some entitlement differences between the two Titles. The approval and use of leave under the FMLA is subject to all conditions and requirements imposed by 5 U.S.C. Chapter 63. Enclosures (1) and (2) implement the local procedures for the FMLA for civilian appropriated fund employees of the Marine Corps Air Station, and Naval Hospital, Cherry Point. Excluded from this Order are bargaining unit employees covered by a collective bargaining agreement (CBA) that specifically addresses this subject.

3. Effective Date. The provisions of Title I were effective on August 5, 1993, except where a collective bargaining agreement

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(CBA) is in effect on that date. Where a CBA is in effect, these provisions take effect on the date of termination of the CBA or on February 5, 1994, whichever is earlier. The provisions of Title II were effective on August 5, 1993. Final regulations are expected to be issued by the Department of Labor in early 1994.

4. Definitions

a. **Adoption:** A legal process in which an individual becomes the legal parent of another's child. The source of an adopted child -- e.g., whether from a licensed placement agency or otherwise -- is not a factor in determining eligibility for FMLA leave.

b. **Agency:** For purposes of this Order, the Marine Corps Air Station, and the Naval Hospital, Cherry Point, North Carolina.

c. **Continuing treatment by a health care provider:** One or more of the following situations where an employee or an employee's spouse, son, daughter, or parent --

(1) is treated two or more times for an illness or injury by a health care provider;

(2) is treated two or more times for an illness or injury by a health care provider under the orders of, or on referral by, the individual's health care provider or is treated for the illness or injury on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider -- e.g., a course of medication or therapy -- to resolve the health condition; or

(3) is under the continuing supervision of the health care provider, but may not necessarily be actively treated by the health care provider, due to a serious long-term or chronic condition or disability which cannot be cured -- e.g., Alzheimer's disease, severe stroke, or terminal stages of a disease.

d. **Employer:** For employees covered under Title I and Title II of these regulations, the U. S. Government constitutes a single employer.

e. **Essential functions:** In general, the fundamental job duties of the employee's position, excluding the marginal functions of the position. Further clarification can be found in 29 C.F.R. 1630.2.

f. **Foster care:** Twenty-four hour care for children in substitution for, and away from, the parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family to take the child.

g. Health care provider

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or,

(2) Any other person determined by the Secretary to be capable of providing health care services, to include only:

(a) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the State and performing within the scope of their practices as defined under State law;

(b) Nurse practitioners and nurse-midwives who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and,

(c) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

* (d) Providers who are recognized by the Federal Employees Health Benefits Program, certified under Federal or State law, recognized as a Native American "traditional healing practitioner", or who practices in a foreign country.

h. In loco parentis: Refers to the situation of an individual who has day-to-day responsibility for the care and financial support of a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

i. Parent: A biological parent or an individual who stands in loco parentis to an employee when the employee was a child. This term does not include parent "in law."

j. Reduced leave schedule: A leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

k. Serious health condition: An illness, injury, impairment, or physical or mental condition that involves--

(1) Any period of incapacity or treatment in connection with or consequent to inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;

(2) Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than 3 calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or

(3) Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than 3 calendar days; or for prenatal care.

(a) Serious health condition examples: heart attack, heart bypass/valve operation, cancer, back surgery, stroke, pneumonia, emphysema, miscarriage, severe nervous disorder, spinal injury. Chronic conditions include: asthma, diabetes, and conditions requiring multiple treatments, such as chemotherapy or kidney dialysis.

(b) Serious health condition does not include: minor illnesses lasting a few days; surgical procedures not involving hospitalization and requiring brief recovery; voluntary or cosmetic treatments not medically necessary, unless hospitalization is required; routine physical examinations; substance abuse without treatment.

1. Son or daughter: A biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis who is--

(1) Under 18 years of age; or

(2) 18 years of age or older and incapable of self-care because of a mental or physical disability.

* (3) A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADL's) or "instrumental activities of daily living" (IADL's). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones/directories, and using a post office, etc. A "physical or mental disability" refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual as defined in 29 CFR 1630.2 (h), (i) and (j)."

* m. Spouse: An individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and woman in States where it is recognized."

5. Action. Personnel desiring leave under the FMLA will follow the instructions contained in enclosures (1) and (2).

6. Forms. Enclosure (3) is the form to be used for the FMLA. The form may be reproduced locally.

W. C. Darnier
W. C. DARNER
Chief of Staff

DISTRIBUTION: A



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
CHERRY POINT, NORTH CAROLINA 28533-5001

IN REPLY REFER TO:
AirStaO 12630.2 Ch 1
HRE7
25 Apr 96

AIR STATION ORDER 12630.2 Ch 1

From: Commanding General
To: Distribution List

Subj: FAMILY AND MEDICAL LEAVE ACT (FMLA) OF 1993

Encl: (1) New page inserts to AirStaO 12630.2

1. Purpose. To transmit new page inserts and direct pen changes to the basic Order.

2. Action

a. Remove pages 3, 4 and 5 of enclosure (1) and replace with corresponding pages contained in the enclosure.

b. Remove pages 3, 4 and 5 of enclosure (2) and replace with corresponding pages contained in the enclosure.

c. Make the following pen changes:

(1) On the Promulgation Page, change originator code from "CPL" to "HRE7".

(2) On page 4, change the Distribution to read, "A-1 plus NavHosp (20)" vice "A-1".


(3) On page 4, delete "Copy to" line.

(4) In paragraph 4c of enclosure (1), first sentence, delete "Division, Civilian Affairs Department" and change to read, "Employment Department, Civilian Human Resources Office - East".

(5) In paragraph 4c of enclosure (2), first sentence, delete "Division, Civilian Affairs Department" and change to read, "Employment Department, Civilian Human Resources Office - East".

3. Change Notation. Paragraphs denoted by an asterisk (*) symbol contain changes not previously published.

4. Filing Instructions. File this Change transmittal immediately behind the signature page of the basic Order.


W. W. SCHIEFFLER
Chief of Staff

DISTRIBUTION: A-1 plus NavHosp (20)



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
CHERRY POINT, NORTH CAROLINA 28533-5001

AirStaO 12630.2 Ch2
HREC2

22 MAR 2000

AIR STATION ORDER 12630.2 Ch 2

From: Commanding General, Marine Corps Air Station, Cherry Point
To: Distribution List

Subj: FAMILY AND MEDICAL LEAVE ACT (FMLA) OF 1993

Encl: (1) New page inserts to AirStaO 12630.2

1. Purpose. To transmit new page inserts to the basic Order.
2. Action
 - a. Remove pages 3 and 4 of the basic Order and replace with corresponding pages in the enclosure, and insert new page 5.
 - b. Remove pages 1 and 2 of enclosure (1) and replace with corresponding pages contained in the enclosure.
3. Change Notation. Paragraphs denoted by an asterisk (*) symbol contain changes not previously published.
4. Filing Instructions. File this Change transmittal immediately behind the signature page of the basic Order.

W.C. Darnier
W. C. DARNER
Chief of Staff

DISTRIBUTION: A

GUIDANCE ON THE FAMILY AND MEDICAL LEAVE ACT OF 1993
TITLE II

1. COVERAGE. Appropriated Federal employees of the Marine Corps Air Station and Naval Hospital (hereinafter referred to as the "Agency"), excluding part-time employees who do not have an established regular tour of duty, employees serving under an intermittent appointment, or temporary employees with a time limitation of 1 year or less.

2. ELIGIBILITY. Eligible employees must have completed at least 12 months of service (need not be recent), but may not include more than six months of leave without pay per calendar year, military service, service as an employee of the government of the District of Columbia, service as a Congressional employee, or excluded service in number 1 above.

3. LEAVE ENTITLEMENT

a. An eligible employee may take a total of 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reason:

(1) The birth of a son or daughter of the employee and the care of such son or daughter;

(2) The placement of a son or daughter with the employee for private or State adoption or State-approved foster care;

(3) The care of a spouse, son daughter, or parent of the employee, if such spouse, son daughter, or parent has a serious health condition; or

(4) A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

b. An employee shall take only the amount of family and medical leave that is necessary to manage the circumstance that prompted the need under 3a above.

c. An employee must invoke FMLA entitlement for one of the reasons stated above in 3a. An employee's application for leave giving notice of his or her intent to take leave will suffice as the employee's confirmation.

d. The 12-month entitlement period begins on the first day of FMLA leave. Exception: The 12 administrative workweeks of leave may begin prior to or on the actual date of birth or placement for adoption or foster care, and will expire 12 months after the date of birth or placement. Leave for a birth or placement must be concluded within 12 months after the date of birth or placement.

e. A total of 12 administrative workweeks will be made available equally for a full-time or part-time employee in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek.

4. INTERMITTENT LEAVE OR REDUCES LEAVE SCHEDULE. Intermittent leave and reduced leave schedule may be used when medically necessary for serious health condition of employee or spouse, child or parent, but may not be used for childbirth and care of newborn, adoption, foster care, unless agreed and approved by Agency management.

a. The number of hours of leave taken intermittently or on a reduced leave schedule shall be subtracted, on an hour-for-hour basis, from the total amount of leave available to the full-time or part-time employee.

b. When an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the Agency may, upon request from the immediate supervisor, temporarily transfer the employee to an available alternative position that has equivalent pay and benefits and that can better accommodate recurring periods of leave.

c. The Light Duty Coordinator, Employment Department, Civilian Human Resources Office, will determine the available alternative position for which the employee is qualified, that has equivalent pay and benefits consistent with Federal laws, when an employee is unable to perform the essential functions of his or her position under 3a (4) above, or that can better accommodate recurring periods of leave under 3a (3) above.

5. SUBSTITUTION OF PAID LEAVE. An employee may elect to substitute any accrued or accumulated annual or sick leave for unpaid FMLA leave, consistent with governing regulations, if the election is made prior to the date such paid time off commences. Compensatory time off and credit hours earned under a flexible work schedule can not be substituted for leave without pay. Substitution of paid leave for unpaid leave cannot be made retroactively. If neither the employee elects to substitute paid leave for FMLA unpaid leave and the circumstances for the paid leave do not qualify for FMLA leave, the leave will not count against the entitlement to 12 weeks of FMLA leave."

6. NOTIFICATION REQUIREMENTS. If leave under any category is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee shall provide notice on an SF-71, Application for Leave, to the immediate supervisor of his or her intention to take leave not less than 30 days before the date the leave is to begin. If the date of birth or placement or planned medical treatment requires leave to begin within 30 days, the employee shall provide such notice as is practicable.

Agency officials are not authorized to waive the notice requirements.

a. When the need for leave is foreseeable, based on planned medical treatment, employee shall make a reasonable effort to schedule treatment so as not to disrupt Agency operations, as practicable.

b. Notice of Leave on an SF-71, Application for Leave, will be provided to the immediate supervisor in person, or by electronic means in unforeseen circumstances. If notice is made telephonically, in unforeseen circumstances, written notification must be made in a timely manner with the immediate supervisor. Provisional leave may be granted pending receipt of the SF-71. Personal representatives providing notice must be designated in writing by the employee.

c. If the need for leave is foreseeable, and the employee fails to give 30 days notice with no reasonable excuse for the delay of notification, the immediate supervisor may delay taking leave under 3a above.

d. Requests for unpaid FMLA leave in excess of 30 consecutive calendar days should be documented via SF-52, Request for Notification of Personnel Action, and forwarded, upon approval, to the Civilian Human Resources Office - East for processing. The approved SF-71 should accompany the request.

7. MEDICAL CERTIFICATION. Requests for leave under 3a(3) or 3a(4) above, must be supported by written medical certification issued by the health care provider of the employee or the health care provider of the spouse, son, daughter, or parent of the employee, as appropriate. Enclosure (4) should be used to submit the medical certification.

a. The employee must provide the medical certification to the immediate supervisor in a timely manner. If the employee is unable to provide medical certification before FMLA leave begins, the supervisor must grant provisional leave pending final written medical certification.

b. If, after FMLA leave has commenced, the employee fails to provide the medical certification, the supervisor may charge the employee as absent without leave (AWOL), or may allow the employee to request that the provisional leave be charged as leave without pay or to the employee's appropriate leave account.

8. CERTIFICATION TO RETURN TO WORK. When an employee takes leave for his or her own serious health condition and is able to return to work to perform the essential functions of his or her position, and where the employee's position has specific medical standards, physical requirements, or is covered by a medical evaluation program, the employee must obtain written medical certification from the

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health care provider of the employee that the employee is able to perform the essential functions of his/her position. The written medical certificate shall be limited to documentation necessary to prove that the employee meets the specific physical qualifications and/or medical standards for his/her position. If the employer requires an employee to obtain written medical certification to return to work, the employer shall notify the employee of this requirement before leave commences and pay the expenses for obtaining the written medical certification. An employee's refusal to provide written medical certification is grounds for appropriate disciplinary or adverse action.

9. RECORDKEEPING AND REPORTING REQUIREMENTS. The Office of Personnel Management (OPM) requires the maintenance of information on an employee's use of FMLA leave.

a. The Payroll system will maintain the required information as follows:

- (1) the employee's rate of basic pay as defined in 5 CFR 550.103(j);
- (2) the occupational series of the employee's position;
- (3) the number of hours of FMLA leave taken; and,
- (4) whether the leave was family leave or medical leave.

b. When an employee transfers to a different agency, the losing Agency must provide the gaining agency with information on the number of hours of FMLA leave taken by the employee and the beginning and ending dates of the employee's 12-month period.

10. EMPLOYEE REVIEW RIGHTS. An employee who believes management has not fully complied with his/her statutory right to take family or medical leave, may file a grievance in accordance with the applicable grievance procedure, i.e., the Agency administrative grievance procedure, or the appropriate negotiated grievance procedure, but not both.

11. MISCELLANEOUS PROVISIONS

a. An employee enrolled in a health benefits plan under the Federal Employees Health Benefits Program, established under 5 USC Chapter 89, who is placed in a unpaid leave status as a result of entitlement to leave under 3a above, may continue his/her health benefits enrollment while in the unpaid leave status and arrange to pay the appropriate employee contributions. The employee shall make such contributions consistent with 5 CFR 890.502.

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b. Collective bargaining agreements shall be complied with that provide greater family or medical leave entitlements to the employee than those provided under FMLA.

c. Entitlements established under the FMLA do not create or provide entitlement to paid time off greater than that otherwise authorized by law or provide sick leave in any situation in which sick leave would not normally be allowed by law or regulation.

d. Once FMLA leave is approved, the employee may not be called back for workload considerations. However, the Agency is not prohibited from requiring an employee on FMLA leave to report periodically to the Agency on the status and intention of the employee to return to work.

ENCLOSURE (1)
CH 1 ()

GUIDANCE ON THE FAMILY AND MEDICAL LEAVE ACT OF 1993
TITLE I

1. COVERAGE. Appropriated Federal employees of the Marine Corps Air Station and Naval Hospital (hereinafter referred to as the "Agency") not covered under Title II of the Act (enclosure [1]). Employees covered under Title I: part-time employees who do not have an established regular tour of duty during the administrative workweek, employees serving under an intermittent appointment or temporary employees with a time limitation of 1 year or less (who also meet the eligibility requirements in number 2 below).

2. ELIGIBILITY. Eligible employees must have completed at least 12 months of service (need not be consecutive), and have been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of FMLA leave. For purposes of determining whether an employee meets the hours of service requirement, the legal standards under the Fair Labor Standards Act (29 U.S.C. 207) shall apply.

3. LEAVE ENTITLEMENT

a. An eligible employee may take a total of 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

(1) The birth of a son or daughter of the employee and the care of such son or daughter;

(2) The placement of a son or daughter with the employee for private or State adoption or State-approved foster care;

(3) The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or

(4) A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

b. A husband and wife employed by the same employer under Title I are permitted to take only a combined total of 12 workweeks of unpaid FMLA leave during any 12-month period:

(1) For the birth of a son or daughter and care of the newborn;

(2) For the placement of a child with the employee for adoption or foster care; or,

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(3) To care for a parent (but not a parent "in-law") with a serious health condition.

c. An employee must invoke FMLA entitlement for one of the reasons stated above in 3a. An employee's application for leave giving notice of his or her intent to take leave will suffice as the employee's confirmation.

d. The 12-month entitlement period begins on the first day of FMLA leave. Exception: The 12 administrative workweeks of leave may begin prior to or on the actual date of birth or placement for adoption or foster care, and will expire 12 months after the date of birth or placement. Leave for a birth or placement must be concluded within 12 months after the date of birth or placement.

e. A total of 12 administrative workweeks will be made available equally for a full-time or part-time employee in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek.

4. INTERMITTENT LEAVE OR REDUCED LEAVE SCHEDULE. Intermittent leave and reduced leave schedule may be used when medically necessary and foreseeable based on planned medical care for serious health condition of employee or spouse, child or parent, but may not be used for childbirth and care of newborn, adoption, foster care, unless agreed to and approved by Agency management.

a. The number of hours of leave taken intermittently or on a reduced leave schedule shall be subtracted, on an hour-for-hour basis, from the total amount of leave available to the full-time or part-time employee.

b. When an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the Agency may temporarily transfer the employee to an available alternative position that has equivalent pay and benefits and that can better accommodate recurring periods of leave.

c. The Light Duty Coordinator, Employment Division, Civilian Affairs Department, will determine the available alternative position for which the employee is qualified, that has equivalent pay and benefits consistent with Federal laws, when an employee is unable to perform the essential functions of his or her position under 3a(4) above, or that can better accommodate recurring periods of leave under 3a(3) above.

5. SUBSTITUTION OF PAID LEAVE. An employee may elect, or the Agency may require, the employee to substitute any accrued or accumulated paid leave for the unpaid FMLA leave, consistent with governing regulations, if the election is made prior to the date such paid time off commences. Substitution of paid leave for unpaid leave cannot be

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made retroactively. If neither the employee or Agency elects to substitute paid leave for FMLA unpaid leave and the circumstances for the paid leave do not qualify for FMLA leave, the leave will not count against the entitlement to 12 weeks of FMLA leave.

6. NOTIFICATION REQUIREMENTS. If leave under any category is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee shall provide notice on an SF-71, Application for Leave, to the immediate supervisor of his/her intention to take leave not less than 30 days before the date the leave is to begin. If the date of birth or placement or planned medical treatment requires leave to begin within 30 days, the employee shall provide such notice as is practicable. Agency officials are not authorized to waive the notice requirement.

a. When the need for leave is foreseeable, based on planned medical treatment, employee shall make a reasonable effort to schedule treatment so as not to disrupt Agency operations, as practicable.

b. Application for Leave on an SF-71 will be provided in person to the immediate supervisor, or by electronic means in unforeseen circumstances. If notice to the supervisor is made by telephone, in unforeseen circumstances, written notification must be made in a timely manner with the immediate supervisor. Provisional leave may be granted pending receipt of the SF-71. Personal representatives providing notice must be designated in writing by the employee.

c. If the need for leave is foreseeable, and the employee fails to give 30 days' notice with no reasonable excuse for the delay of notification, the supervisor may delay taking leave under 3a above.

7. MEDICAL CERTIFICATION. Requests for leave under 3a(3) or 3a(4) above, must be supported by written medical certification issued by the health care provider of the employee or the health care provider of the spouse, son, daughter, or parent of the employee, as appropriate. Enclosure (4) should be used to submit the medical certification. The employee must provide the medical certification to the agency in a timely manner.

a. If an employee fails to provide timely certification within 15 days (where practicable) of being asked to do so by the Agency, and the need for leave was foreseeable, the immediate supervisor may deny taking leave until the required certification is provided.

b. If the need for leave is not foreseeable, the employee must still attempt to provide the certification within 15 days of the Agency's request, or as soon thereafter as practicable under the circumstances.

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CH 1 ()

c. If, after FMLA leave has commenced, the employee fails to provide the medical certification, the immediate supervisor, at his/her discretion: may deny the employee's continuation of leave; may charge the employee as AWOL; or, may allow the employee to request that the provisional leave be charged as leave without pay or to the employee's appropriate leave account.

d. Requests for unpaid FMLA leave in excess of 30 consecutive calendar days should be documented via SF-52, Request for Notification of Personnel Action, and forwarded, upon approval, to the Civilian Human Resources Office - East for processing. The SF-71, Application for Leave, should accompany the request.

8. CERTIFICATION TO RETURN TO WORK. When an employee takes leave for his/her own serious health condition and is able to return to work to perform the essential functions of his/her position, and where the employee's position has specific medical standards, physical requirements, or is covered by a medical evaluation program, the employee must obtain written medical certification from the health care provider that the employee is able to perform the essential functions of his/her position. The written medical certificate shall be limited to documentation necessary to prove that the employee meets the specific physical qualifications and/or medical standards for his/her position. If the Agency requires an employee to obtain written medical certification to return to work, the agency shall notify the employee of this requirement before leave commences and pay the expenses for obtaining the written medical certification. An employee's refusal to provide written medical certification is grounds for appropriate disciplinary or adverse action.

9. RECORDKEEPING AND REPORTING REQUIREMENTS. The Office of Personnel Management (OPM) requires the maintenance of information on an employee's use of FMLA leave.

a. The Payroll System will maintain the requisite information required by Title I.

b. The Labor and Employee Relations Department will maintain the following information:

- (1) Policy regarding taking paid and unpaid leave; and
- (2) Records of disputes between the Agency and employee regarding FMLA leave.

10. EMPLOYEE REVIEW RIGHTS. An employee who believes management has not fully complied with his/her statutory right to take family or medical leave, may file a grievance in accordance with the applicable grievance procedure, i.e., the Agency administrative grievance

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procedure, or the appropriate negotiated grievance procedure, but not both.

11. MISCELLANEOUS PROVISIONS

a. An employee enrolled in a health benefits plan under the Federal Employees Health Benefits Program, established under 5 USC Chapter 89, who is placed in a unpaid leave status as a result of entitlement to leave under 3a above, may continue his/her health benefits enrollment while in the unpaid leave status and arrange to pay the appropriate employee contributions. The employee shall make such contributions consistent with 5 CFR 890.502.

b. Collective bargaining agreements shall be complied with that provide greater family or medical leave entitlements to the employee than those provided under FMLA.

c. Entitlements established under the FMLA do not create or provide entitlement to paid time off greater than that otherwise authorized by law, or provide sick leave in any situation in which sick leave would not normally be allowed by law or regulation.

d. Taking FMLA leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

e. An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. For example, if an employee's appointment expires during FMLA leave and he/she would not otherwise be continually employed at the time FMLA expired, the employee would not be entitled to return to work.

f. Once FMLA leave is approved, the employee may not be called back for workload considerations. However, the Agency is not prohibited from requiring an employee on FMLA leave to report on the status and intention of the employee to return to work.

ENCLOSURE (2)

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Certification of Physician
or Practitioner
(Family and Medical Leave Act of 1993)

U.S. Department of Labor AirSta0 12630 2
Employment Standards Administration 20 Jan 94
Wage and Hour Division



1. Employee's Name

2. Patient's Name (If other than employee)

3. Diagnosis

4. Date condition commenced

5. Probable duration of condition

6. Regimen of treatment to be prescribed (indicate number of visits, general nature and duration of treatment, including referral to other provider of health services. Include schedule of visits or treatment, if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week.)

a. By Physician or Practitioner

b. By another provider of health services, if referred by Physician or Practitioner

If this certification relates to care for the employee's seriously-ill family member, skip Items 7, 8 and 9 and proceed to Items 13 thru 20 on reverse side. Otherwise, continue below.

Check Yes or No in the boxes below, as appropriate

7. Is inpatient hospitalization of the employee required? ☐ Yes ☐ No

8. Is employee able to perform work of any kind? (If "No", skip Item 9) ☐ Yes ☐ No

9. Is employee able to perform the functions of employee's position? (Answer after reviewing statement from employer of essential functions of employee's position, or, if none provided, after discussing with employee) ☐ Yes ☐ No

10. Signature of Physician or Practitioner

11. Date

12. Type of Practice (Field of Specialization, if any)

For certification relating to care for the employee's seriously-ill family member, complete Items 13 thru 17 below as they apply to the family member and proceed to Item 20.

13. Is inpatient hospitalization of the family member (patient) required? ☐ Yes ☐ No
14. Does (or will) the patient require assistance for basic medical, hygiene, nutritional needs, safety or transportation? ☐ Yes ☐ No
15. After review of the employee's signed statement (See Item 17 below), is the employee's presence necessary or would it be beneficial for the care of the patient? (This may include psychological comfort.) ☐ Yes ☐ No
16. Estimate the period of time care is needed or the employee's presence would be beneficial.

Item 17 is to be completed by the employee needing family leave

17. When Family Leave is needed to care for a seriously-ill family member, the employee shall state the care he or she will provide and an estimate of the time period during which this care will be provided, including a schedule if leave is to be taken intermittently or on a reduced leave schedule.

18. Employee Signature		19. Date
20. Signature of Physician or Practitioner	21. Date	22. Type of Practice (Field of Specialization, if any)